

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
ALLTEL Communications, Inc.	)	
Petition for Consent to Redefine Rural	)	
Telephone Company Service Areas	)	
in Wisconsin	)	

**COMMENTS OF TDS TELECOMMUNICATIONS CORP.**

TDS Telecommunications Corp. (“TDS Telecom”), parent company of rural local exchange carriers (“RLECs”) Mount Vernon Telephone Co. (“Mt. Vernon”), Midway Telephone Company (“Midway”), and Stockbridge and Sherwood Telephone (“S&S”) (collectively, the “TDS RLECs”), submits these comments in response to the Supplement to the Petition of ALLTEL Communications, Inc. for Consent to Redefine Rural Telephone Company Service Areas in Wisconsin, including those of the TDS RLECs.<sup>1</sup> These comments respond to the Commission’s invitation to identify new information or arguments related to the Commission’s *Virginia Cellular*<sup>2</sup> and *Highland Cellular*<sup>3</sup> decisions that are relevant to the pending Petition.<sup>4</sup>

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<sup>1</sup> In September 2003, the Wisconsin Public Service Commission (“WPSC”) granted ALLTEL ETC status for certain portions of RLEC study areas it serves in the state. The WPSC proposed to redefine the service areas of certain RLECs, including the TDS RLECs, to permit ALLTEL to be designated as an ETC in only portions of the RLECs’ study areas. ALLTEL then petitioned the Commission for approval of the WPSC redefinition decision. *Federal-State Joint Board on Universal Service, Petition of ALLTEL Communications, Inc. For Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Wisconsin*, Petition, CC Docket No. 96-45 (Nov. 21, 2003) (“Petition”). ALLTEL filed the Supplement to the Petition on May 14, 2004. *Federal-State Joint Board on Universal Service, ALLTEL Communications, Inc., Petition for Consent to Redefine Rural Telephone Company Service Areas in Wisconsin*, CC Docket No. 96-45, DA No. 04-565, Supplement (May 14, 2004) (“Supplement”).

<sup>2</sup> Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338 (rel. Jan. 22, 2004) (“*Virginia Cellular*”).

We also identify a relevant issue raised by the recently-released Recommended Decision of the Federal-State Joint Board on Universal Service (“Joint Board”).<sup>5</sup>

Specifically, TDS Telecom urges the Commission to deny the Petition with respect to the TDS RLECs on the ground that, under the standards set forth in *Virginia Cellular* and *Highland Cellular*, redefining the TDS RLECs’ service area as proposed will allow ALLTEL to “cream-skim” and could undermine the TDS RLECs’ ability to serve their study areas. Alternatively, the Commission should delay consideration of the Petition until after the Commission has resolved issues raised in the pending Recommended Decision relating to per-line support mechanisms for designating eligible telecommunications carriers (“ETCs”).

**I. THE PUBLIC INTEREST WOULD NOT BE SERVED BY GRANTING THE SERVICE AREA REDEFINITION REQUESTED IN THE PETITION**

In *Virginia Cellular* and *Highland Cellular*, the Commission affirmed that decisions concerning redefinition of a rural telephone company’s service area to allow a competitive ETC to serve only a portion of that area should continue to take into account the concerns of the Joint Board in (1) minimizing creamskimming; (2) recognizing that the Telecommunications Act of 1996 places rural telephone companies on a different competitive footing than other local exchange carriers; and (3) recognizing the administrative burden of

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(continued...)

<sup>3</sup> Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service Highland Cellular, Inc Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004) (“*Highland Cellular*”).

<sup>4</sup> See Public Notice, *Parties are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, CC Docket No. 96-45, DA 04-999 (rel. Apr. 12, 2004) (“Public Notice”).

<sup>5</sup> Recommended Decision, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of The Commission’s Rules Relating to High-Cost Universal Support and The ETC Designation Process*, CC Docket No. 96-45, FCC 04J-1 (rel. Feb. 27, 2004) (“Recommended Decision”).

requiring rural telephone companies to calculate costs at something other than the study area level.<sup>6</sup> The Commission also provided additional guidance concerning the circumstances in which creamskimming concerns are implicated.

To evaluate whether creamskimming concerns were implicated in a request to designate an ETC in select wire center(s) – and to redefine the RLEC service area – *Virginia Cellular* and *Highland Cellular* examined the potential creamskimming *effect* of the petitioner’s request to serve only selected wire center(s) within a rural telephone company’s service area. Specifically, the Commission examined both the population density of the wire center(s) in which the petitioner sought to be designated as an ETC and the disparity between the density of the designated wire center(s) and the other wire centers in the RLEC’s service area.<sup>7</sup> The Commission relied on this comparative density information to determine whether designating the petitioner as an ETC in the specified wire center(s) – and redefining the RLEC’s service area to permit such designation – could potentially undermine the RLEC’s ability to serve its entire study area.<sup>8</sup> In *Highland Cellular*, the Commission further noted that where the RLEC’s “study area includes wire centers with highly variable population densities, and therefore highly variable cost characteristics, disaggregation may be a less viable alternative for reducing creamskimming opportunities. This problem may be compounded where the cost characteristics of the incumbent and competitor differ substantially.”<sup>9</sup> Accordingly, the Commission “reject[ed]

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<sup>6</sup> See *Virginia Cellular* ¶ 41; *Highland Cellular* ¶ 38. “Rural creamskimming occurs when competitors serve only the low-cost, high revenue customers in a rural telephone company’s study area.” *Virginia Cellular* ¶ 32; *Highland Cellular* ¶ 26.

<sup>7</sup> *Virginia Cellular* ¶ 35; *Highland Cellular* ¶¶ 29-31.

<sup>8</sup> *Virginia Cellular* ¶ 35; *Highland Cellular* ¶ 32.

<sup>9</sup> *Highland Cellular* ¶ 32.

arguments that incumbents can, in every instance, protect against creamskimming by disaggregating high-cost support to the higher-cost portions of the incumbent's study area.”<sup>10</sup>

Before applying the *Virginia Cellular* and *Highland Cellular* “creamskimming” tests to the Petition, TDS Telecom suggests one slight modification to ensure that the tests reflect more accurately the cost characteristics of the relevant wire centers. Specifically, we respectfully suggest that the Commission examine *access line density* – calculated by dividing the number of access lines served by a wire center by the square mileage of the area served – rather than population density when evaluating the potential creamskimming effect of a partial ETC designation and related service area redefinition. In the experience of TDS Telecom, access line density reflects much more accurately the costs of serving a wire center than the density of the population in the area.

Applying this modified test to the Petition, the potential creamskimming effect of the partial designation and service area redefinition in the TDS RLEC service areas is apparent. The access line densities of the wire centers of the TDS RLECs are shown in the following table. The centers in which ALLTEL sought ETC designation are indicated in bold:

TDS RLEC	Wire Center	Access Line Density (lines/sq. mile)
Mount Vernon Telephone Co.	Verona	209.569
	<b>New Glarus</b>	<b>33.568</b>
	Mt. Vernon	14.375

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<sup>10</sup> *Id.*

Midway Telephone Co.	Medford	21.918
	<b>Dorchester</b>	<b>20.154</b>
	Stetsonville	13.423
Stockbridge and Sherwood Telephone	Sherwood	37.254
	<b>Stockbridge</b>	<b>31.415</b>
	<b>Hilbert</b>	<b>30.423</b>
	Tisch Mills	13.724

Although ALLTEL has not sought to serve only the most densely-populated TDS RLEC wire centers, in every case ALLTEL has avoided serving the least dense, most high-cost wire centers. These wire centers generally are less than half as densely populated with access lines than the wire centers in which ALLTEL has sought ETC designation. Even if this disparity is not motivated by an *intent* to engage in rural creamskimming, the effect on the TDS RLECs of limiting ALLTEL's ETC designation to mid-density wire centers while excluding all very-low-density wire centers is the same and could place the TDS RLECs at "a sizeable unfair advantage."<sup>11</sup>

Although Mt. Vernon has disaggregated its universal service support below the study area level (and Midway and S&S could choose to do so), the Commission has acknowledged that disaggregation cannot always protect against the effects of creamskimming, particularly where the incumbent's wire centers exhibit highly variable population densities and

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<sup>11</sup> See *Highland Cellular* at ¶ 32; *Virginia Cellular* at ¶ 35. In *Highland Cellular*, the Commission expressly noted that even where a competitive carrier is simply seeking ETC designation in its own licensed service area, and thus is not "deliberately seeking to enter only certain portions of [rural telephone] companies' study areas in order to creamskim," "granting a carrier ETC designation for only its licensed portion of the rural study may have the same effect on the ILEC as rural creamskimming" and would be inconsistent with the public interest. *Highland Cellular* ¶¶ 26-27.

therefore highly variable cost characteristics.<sup>12</sup> These characteristics are present in the wire centers ALLTEL seeks to serve. As a proxy to demonstrate the variation in access line density across its wire centers, TDS Telecom calculated the access line density in each Census Block Group (“CBG”) within the wire centers in which ALLTEL has been designated as an ETC.<sup>13</sup> The densities of the CBGs do not reflect exactly the densities within the wire centers because the boundaries of the CBGs do not correspond precisely with wire center boundaries (*i.e.*, part of a CBG may be in one wire center while another part is in another wire center). Nonetheless, we believe that the access line densities of the CBGs that are partially or entirely within the relevant TDS RLEC wire centers can serve as a useful indicator of how population and access lines are grouped within the wire centers.

An examination of the access line densities in the CBGs within the TDS RLEC wire centers in which ALLTEL has been designated an ETC shows significant variation in access line density across all four wire centers. For example, there are eight CBGs in Mount Vernon’s New Glarus wire center, with access line densities ranging from as high as 179.8 lines/sq. mile to as low as 6 lines/sq. mile. Of the four CBGs in Midway’s Dorchester wire center, the access line densities range from 40.1 lines/sq. mile to 9 lines/sq. mile. In S&S’s Stockbridge wire center, the three CBGs have access line densities ranging from 37.9 lines/sq. mile to 10.9 lines/sq. mile. Finally, the access line densities in the 6 small CBGs (less than 10 square miles each) in S&S’s Hilbert wire center range from 2.7 lines/sq. mile to only .3 lines/sq. mile. As these figures show, all the TDS RLEC “study area[s] include[] wire centers with highly

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<sup>12</sup> *Highland Cellular* ¶ 32.

<sup>13</sup> Census Block Groups are established by the U.S. Census Bureau for purposes of compiling and analyzing census information. The CBG figures used here are from the 2002 Census.

variable population densities, and therefore highly variable cost characteristics,”<sup>14</sup> making disaggregation less viable for reducing creamskimming opportunities.<sup>15</sup>

In sum, the redefinition of the TDS RLEC service areas sought in the Petition and Supplement would be inconsistent with the public interest under *Virginia Cellular* and *Highland Cellular* because the redefinition would implicate creamskimming concerns and potentially undermine the TDS RLECs’ ability to serve their entire study areas. Accordingly, the Petition must be denied and referred to the WPSC for reconsideration of the underlying decision to designate ALLTEL as an ETC in only portions of the TDS RLEC study areas.

## **II. THE COMMISSION SHOULD NOT CONSIDER THE PROPOSED SERVICE AREA REDEFINITION UNTIL AFTER THE COMMISSION HAS RESOLVED THE PER-LINE SUPPORT ISSUES RAISED IN THE RECOMMENDED DECISION**

The Commission is currently evaluating a number of proposals to revise the rules relating to High-Cost universal service support and the criteria and procedures for designating ETCs eligible to receive that support.<sup>16</sup> One of the issues identified in the Recommended

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<sup>14</sup> *Highland Cellular* ¶ 32.

<sup>15</sup> Even where the wire centers within a study area do not exhibit highly variable population densities, disaggregation of universal service support does not fully protect against the potential harm caused to the incumbent by creamskimming. Although disaggregation and targeting of universal service support can ensure that rural telephone companies continue to recover the direct costs of serving their most high-cost wire centers (which are not subject to competition), certain cross-wire-center network and overhead costs may not be fully reflected in disaggregation plans. If universal service payments for lower-cost areas subject to competition eventually decline, those cross-wire-center costs (which will persist as the rural incumbent continues to maintain its network as the “carrier of last resort” throughout its service area) may not be fully recovered. Thus, disaggregation alone does not ensure that the public interest will be served by the designation of ALLTEL as a competitive ETC in the specified wire centers in the TDS RLEC territories.

<sup>16</sup> The Joint Board issued a request for comments on these issues in February 2003. Public Notice, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of The Commission’s Rules Relating to High-Cost Universal Service Support and The ETC Designation Process*, CC Docket No. 96-45, FCC 03J-1 (rel. Feb. 7, 2003) (“*High Cost/ETC Notice*”). Commenters identified a number of factors the Commission should consider in determining whether to grant ETC designation, especially in rural service areas. The Joint Board has issued a Recommended Decision, which is now before the Commission.

Decision as meriting further consideration by the Commission is the potential use of specific benchmarks, based on per-line support, to guide state and federal regulators deciding whether the public interest would be served by designating one or more competitive ETCs in a rural service area.<sup>17</sup> As the Joint Board noted, per-line support can serve as a useful marker for determining whether the line density, population density, distance between wire centers, loop lengths and levels of investment in a particular rural service area can appropriately support the entry of one or more competitive carriers.<sup>18</sup> Although the Joint Board was unable to reach a consensus to recommend specific per-line support benchmarks, the Recommended Decision does recognize the value of adopting per-line support benchmarks and recommends that the Commission solicit comment on whether such benchmarks merit consideration by the Commission.<sup>19</sup>

Per-line support benchmarks could be especially relevant where a potential ETC seeks to redefine a RLEC's service area to serve only select wire centers within the RLEC's service area. By subdividing a rural service area and further reducing the already small subscriber base for purposes of universal service funding and competitive ETC designation, a competitive entrant could further reduce the economies of scale present in rural territories and create smaller service areas that are even less capable of supporting competitive entry than a rural company's full service area. Diluting support to these areas, on a piecemeal basis

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<sup>17</sup> Recommended Decision ¶ 44.

<sup>18</sup> *Id.* ¶ 43. The Joint Board concluded that "[i]f the per-line support level is high enough, the state may be justified in limiting the number of ETCs in that study area, because funding multiple ETCs in such areas could impose strains on the universal service fund. Moreover, if the Commission were to cap per-line support upon entry of a competitive ETC and impose a primary-connection restriction, as discussed [in the Recommended Decision], designating an excessive number of ETCs could dilute the amount of support available to each ETC to the point that each carrier's ability to provide universal service might be jeopardized. *Id.*

<sup>19</sup> *Id.*



throughout the rural telephone company's service area, could be even more damaging to the ETCs' ability to provide universal service throughout the rural area.

Because of the potential harm to universal service goals – as recognized by the Joint Board – that could result from designating multiple ETCs in small, wire-center-level rural service areas with high per-line support, the Commission should decline to approve any service area redefinitions necessitated by ETC designations in partial rural service areas until after the Commission has addressed the possibility of adopting specific per-line support benchmarks to guide decisionmakers considering designating competitive ETCs in rural service areas (and partial rural service areas specifically).

**CONCLUSION**

For the foregoing reasons, the Commission should reject the Petition and Supplement and refer them to the WPSC for reconsideration of its decisions to redefine the TDS RLEC service areas and designate ALLTEL as a competitive ETC in select wire centers. Alternatively, the Commission should delay consideration of the Petition until after the Commission has resolved the issues related to per-line support raised in the pending Joint Board Recommended Decision.

Respectfully submitted,

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